

PCT

10/501696

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

REC'D 03 MAY 2004



WIPO PCT

Applicant's or agent's file reference 1313/2K197WOD	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/US 03/01252	International filing date (day/month/year) 15.01.2003	Priority date (day/month/year) 18.01.2002
International Patent Classification (IPC) or both national classification and IPC A61F13/15		
Applicant BKI HOLDING CORPORATION		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).
These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

I	<input checked="" type="checkbox"/>	Basis of the opinion
II	<input type="checkbox"/>	Priority
III	<input type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
IV	<input type="checkbox"/>	Lack of unity of invention
V	<input checked="" type="checkbox"/>	Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
VI	<input type="checkbox"/>	Certain documents cited
VII	<input type="checkbox"/>	Certain defects in the international application
VIII	<input type="checkbox"/>	Certain observations on the international application

Date of submission of the demand 30.06.2003	Date of completion of this report 30.04.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Lanniel, G Telephone No. +49 89 2399-2062 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/US 03/01252**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-40 as originally filed

Claims, Numbers

1-73 as originally filed

Drawings, Sheets

1/7-7/7 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-73
Inventive step (IS)	Yes: Claims	
	No: Claims	1-73
Industrial applicability (IA)	Yes: Claims	1-73
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

The application contains 7 independent product claims 1, 46, 47, 49, 57, 68, 72 and 3 independent process claims 56, 66, 69. The aforementioned claims therefore lack conciseness. Moreover, lack of clarity of the claims as a whole arises, since **the plurality of independent claims makes** it difficult, if not **impossible**, to determine the matter for which protection is sought.

The applicant's attention is drawn to the fact that this lack of conciseness leads to a lack of unity since claims 1-56, 66 relates to materials comprising given ranges of SAP fibers, binders and processes for their production and claims 57-65, 67 relates to multistrata fibrous webs and processes for making the same and claims 68-72 relates to absorbent cores.

Hence, these claims do not meet the requirements of Article 6 PCT.

The application does not meet the requirements of Article 6 PCT, because claims 68 and 69 are not clear.

Claims 68 and 69 are independent claims and as such should contain all the technical features necessary to define the invention. However, this is not the case.

The present application does not meet the requirements of Article 33(1) PCT, because the subject-matter of claims 56 and 66 as drafted is not new.

The subject-matter of claim 56 is not novel over each of the following documents WO 00 41 882 (D1), WO 01 35886 (D2) and US-A-5 836 929 (D3), since these documents disclose a process for producing a *material* comprising more than 60% SAP, 5 to 40% fibers, 0.1 to 30% binder. These documents do not disclose explicitly that the material has a pliability of 400 1/N but since the process according to claims 56 and 66 does not comprise a step which allow the skilled person to achieve this result, it appears that this is obtained without any special features.

The present application does not meet the requirements of Article 33(1) PCT, because the subject-matter of claim 1 as drafted is not new.

For the same reason the subject-matter of claim 1 is known from D1 and D2.

The present application does not meet the requirements of Article 33(1) PCT, because the subject-matter of claim 57 as drafted is not new.

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International application No. PCT/US03/01252

Documents D1 (cf claims 1, 23, 24) and WO 99 47094 (D5) disclose a multistrata fibrous web as claimed in claim 57.

The present application does not meet the requirements of Article 33(1) PCT, because the subject-matter of claim 49 is not new.

Document US-A-5 836 929 (D3) discloses (col:9, line 28, lines 38-40) a "nonwoven" comprising 70 to 80% SAP. Since the application does not give any technical teaching how the pliability of greater than 400 1/N may be achieved, this property appears to be inherent and therefore it is also known from D3.

The present application does not meet the requirements of Articles 33(3) PCT, because the subject-matter of claims 68 and 69 does not involve an inventive step.

The use of the known material as absorbent core is known from D2 and cannot be considered as involving an inventive step.

Dependent claims 2-48, 50-55, 67, 58- 65, 70-73 do not appear to contain any additional features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT with respect to novelty and/or inventive step.

It is not at present apparent which part of the application could serve as a basis for a new, allowable claim.